

SENATE BILL NO. 58

INTRODUCED BY M. HALLIGAN

BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO CIVIL AND CRIMINAL PENALTIES FOR VIOLATION OF THE PROVISIONS OF MOTOR FUELS LAWS; ALLOWING THE DEPARTMENT OF TRANSPORTATION TO IMPOSE CIVIL PENALTIES FOR VIOLATION OF GASOLINE AND SPECIAL FUEL LAWS; REDUCING THE MAXIMUM FINE FOR A CRIMINAL VIOLATION OF THE SPECIAL FUEL LAWS; AMENDING ~~SECTION~~ SECTIONS 15-70-330 AND 15-70-336, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Civil penalty.** The department may, after giving notice and holding a hearing, if requested, pursuant to Title 2, chapter 4, part 6, impose a civil penalty not to exceed \$100 for any violation of this part. The civil penalty may be in addition to the criminal penalties imposed under 15-70-232.

NEW SECTION. **Section 2. Civil penalty.** The department may, after giving notice and holding a hearing, if requested, pursuant to Title 2, chapter 4, part 6, impose a civil penalty not to exceed \$100 for any violation of this part. The civil penalty may be in addition to the criminal penalties imposed under 15-70-330, 15-70-336, and 15-70-366.

SECTION 3. SECTION 15-70-330, MCA, IS AMENDED TO READ:

"15-70-330. Special fuel penalties. (1) In the case of a special fuel user who refuses or fails to file a return required by this part within the time prescribed by 15-70-103 and 15-70-325, there is imposed a penalty of \$25 or a sum equal to 10% of the tax due, whichever is greater, together with interest at the rate of 1% on the tax due for each calendar month or fraction of a month during which the refusal or failure continues. However, if any special fuel user establishes to the satisfaction of the department that the failure to file a return within the time prescribed was due to reasonable cause, the

1 department shall waive the penalty provided by this section.

2 (2) Whenever a special fuel user files a return but fails to pay in whole or in part the tax due under
3 this part, interest at the rate of 1% ~~per~~ a month or fraction of a month from the date on which the tax was
4 due to the date of payment in full must be added to the amount due and unpaid.

5 (3) (a) A special fuel user may not use dyed special fuel to operate a motor vehicle upon the public
6 roads and highways of this state unless the fuel is subject to taxation under 15-70-321(1)(b) or the use
7 is permitted pursuant to rules adopted under subsection (3)(b). The purposeful or knowing use of dyed
8 special fuel in a motor vehicle operating upon the public roads and highways of this state in violation of
9 this subsection is subject to the civil penalty imposed under [section 2] for the first offense. A subsequent
10 offense is a misdemeanor punishable ~~by a fine not to exceed \$500 upon conviction for the first offense,~~
11 ~~not to exceed \$1,000 upon conviction for the second offense, and not to exceed \$2,000 for each~~
12 ~~subsequent conviction~~ as provided in 15-70-336. Each use is a separate offense.

13 (b) The department shall adopt and enforce reasonable rules for the movement of off-highway
14 vehicles traveling from one location to another on public highways, public roads, or streets when using
15 dyed fuel or nontaxed fuel.

16 (4) The operator of the vehicle is liable for the tax imposed in 15-70-321. If the operator refuses
17 or fails to pay the tax, in whole or in part, the seller of the special fuel is jointly and severally liable for the
18 tax imposed under 15-70-321 and for the penalties described in this section if the seller knows or has
19 reason to know that the fuel will be used for a taxable purpose."

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21 **Section 4.** Section 15-70-336, MCA, is amended to read:

22 **"15-70-336. Criminal penalties.** (1) ~~Any~~ A person violating any provision of ~~15-70-101 or this~~
23 part, except 15-70-311 through 15-70-314 and 15-70-321, is guilty of a misdemeanor ~~unless the act is~~
24 ~~by any other law of this state declared to be a felony~~ and upon conviction is punishable by a fine of not
25 less than \$100 or more than ~~\$2,000~~ \$1,000 or by imprisonment for not less than 30 days or more than
26 6 months, ~~or by both such fine and imprisonment.~~

27 (2) The fine and imprisonment provided for in this section ~~shall be~~ is in addition to any other
28 penalty imposed by any other provision of this part."

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30 NEW SECTION. **Section 5. Codification instruction.** (1) [Section 1] is intended to be codified as

1 an integral part of Title 15, chapter 70, part 2, and the provisions of Title 15, chapter 70, part 2, apply
2 to [section 1].

3 (2) [Section 2] is intended to be codified as an integral part of Title 15, chapter 70, part 3, and
4 the provisions of Title 15, chapter 70, part 3, apply to [section 2].

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6 NEW SECTION. **Section 6. Effective date.** [This act] is effective July 1, 2001.

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